

EXHIBIT 1

INTRODUCTION

Respondent Donald Schrader was elected to the Yuba County Board of Supervisors (the “Board of Supervisors”) in 1996, and has served on the Board of Supervisors continuously since that time. As a member of the Board of Supervisors, Respondent Schrader was also a member of the governing board of the Yuba County Water Agency (the “Water Agency Board”).

As set forth below, Respondent Schrader, as a member of the Board of Supervisors and the Water Agency Board, made, participated in making, influenced, or attempted to influence, a number of governmental decisions that had a material financial effect on sources of income to him, in violation of Government Code section 87100.

For the purposes of this stipulation, Respondent Schrader’s violations of the Political Reform Act (the “Act”)¹ are stated as follows:

- COUNT 1:** On or about June 15, 2000, Respondent Donald Schrader used or attempted to use his official position to influence a governmental decision in which he knew or had reason to know he had a financial interest, specifically, a decision by the California Regional Water Quality Control Board for the Central Valley Region to approve waste discharge requirements for Western Aggregates, Inc., in violation of section 87100 of the Government Code.
- COUNT 2:** On or about November 6, 2001, Respondent Donald Schrader made or participated in making a governmental decision in which he knew or had reason to know he had a financial interest, specifically, a decision to approve an extension of a service contract between Yuba County and the Fremont Rideout Hospital Group to operate the Peach Tree Clinic through June 2002, in violation of section 87100 of the Government Code.
- COUNT 3:** On or about October 22, 2002, Respondent Donald Schrader made or participated in making a governmental decision in which he knew or had reason to know he had a financial interest, specifically, a decision to approve a management services agreement between Yuba County and the Fremont Rideout Hospital Group to operate the Peach Tree Clinic, in violation of section 87100 of the Government Code.

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

SUMMARY OF THE LAW

Section 81001, subdivision (b) states that public officials should perform their duties in an impartial manner, free from bias caused by their financial interests or the financial interests of persons who have supported them. In order to accomplish this purpose, section 87100 prohibits a public official from making, participating in making, or attempting to use his or her official position to influence any governmental decision in which the official knows or has reason to know that he or she has a financial interest.

A public official “makes a governmental decision” when the official votes on a matter, appoints a person, commits his or her agency to a course of action, or enters into a contractual agreement on behalf of his or her agency. (Regulation 18702.1, subd. (a).) Under regulation 18702.3, with respect to a decision before another agency, a public official is attempting to use his or her position to influence a governmental decision, if he or she acts or purports to act on behalf of, or as the representative of, his or her public agency to another agency.

Under section 87103, subdivision (c), a public official has a financial interest in a decision if it was reasonably foreseeable that the decision will have a material financial effect on any source of income, except gifts or loans, aggregating five hundred dollars (\$500) or more in value provided or promised to, or received by, the public official within 12 months preceding the time when the decision is made. Under section 82030, subdivision (a), income of an individual also includes a pro rata share of any income of any business entity in which the individual or spouse owns, directly, indirectly or beneficially, a 10-percent interest or greater. Under section 82030, subdivision (a), salary from an employer is income, including any community property interest in the income of a spouse.

Under regulation 18704.1, a public official’s economic interest in a source of income is directly involved in a governmental decision, if the source of income initiates the proceeding in which a decision will be made by filing an application, appeal or similar request, or is a named party in the proceeding. Where a public official’s economic interest in a source of income is directly involved in a governmental decision, any reasonably foreseeable financial effect of the decision is deemed to be material. (Reg. 18705.3, subd. (a).)

SUMMARY OF THE FACTS

At all times relevant herein, Respondent Schrader was a “public official” within the meaning of sections 82048 and 87100. He was a member of the Board of Supervisors and was also a member of the Water Agency Board.

COUNT 1

At all times relevant herein, Respondent Schrader was the sole proprietor and owner of the Schrader Scale Company, a sales and service company for truck scales. The Schrader Scale Company is located and does business in Yuba County.

Western Aggregates, Inc. is a national company that has a significant sand and gravel extraction facility on the Yuba River in Yuba County. At all times relevant herein, Western Aggregates, Inc., had truck scales at its Yuba County facility, and was a client of the Schrader Scale Company. On or between June 23, 1999, and July 14, 1999, Western Aggregates, Inc., paid the Schrader Scale Company the aggregate amount of \$4,222.35 for goods and/or services rendered to its Yuba County facility. Additionally, on or between April 21, 2000 and May 8, 2000, Western Aggregates, Inc., paid the Schrader Scale Company the aggregate amount of \$3,112.79 for goods and/or services rendered to its Yuba County facility. Under section 82030, subdivision (a), because of these payments by Western Aggregates, Inc. to the Schrader Scale Company, Western Aggregates, Inc. was a source of income to Respondent Schrader, as the sole proprietor and owner of the Schrader Scale Company.

On June 15, 2000, Respondent Schrader appeared before the California Regional Water Quality Control Board (the "CRWQCB"). At that meeting, the CRWQCB was considering waste discharge requirements for seven Yuba County Goldfields mining operations on or near the Yuba River in Yuba County. Of the seven mining operations under consideration, three involved Western Aggregates, Inc. as a named party.

Respondent Schrader testified in support of the seven Yuba County Goldfields mining operations. He did so in his capacity as a co-chair of the Board of Supervisors and the chair of the Water Agency Board. The CRWQCB approved new waste discharge requirements for the seven Yuba County Goldfields mining operations, including those of Western Aggregates, Inc. The approval of such waste discharge requirements had a reasonably foreseeable material financial effect on Western Aggregates, Inc., in that it was able to continue its various mining operations on the Yuba River.

By appearing and testifying before the CRWQCB, and representing himself in his dual official capacities as the co-chair of the Board of Supervisors and the chair of the Water Agency Board, Respondent Schrader used his official positions to influence, or attempt to influence, a governmental decision that would have a reasonably foreseeable material financial effect on a source of income to him, Western Aggregates, Inc., in violation of section 87100.

COUNTS 2-3

At all times relevant herein, Respondent Schrader's spouse was employed by the Fremont Rideout Hospital Group (the "FRHG") as a part-time clerk in the personnel department, for which she received income in excess of \$10,000 per year. Under section 82030, subdivision (a), Respondent Schrader's community property interest in his spouse's salary is income under the Act. Therefore, at all times relevant herein, the FRHG was a source of income to Respondent Schrader.

Count 2: November 6, 2001 Decision

On November 6, 2001, the Board of Supervisors considered a proposed contract amendment with the FRHG to extend the FRHG's services until June 2002, in operating the Peach Tree Clinic, an

indigent healthcare clinic for the county. Respondent Schrader was present and participated in the Board of Supervisors' consideration of the contract extension, and voted to approve the contract extension, which passed in a 4-1 vote. The approval of the amendment to the management services contract had a reasonably foreseeable material financial effect on FHRG, in that it continued to receive funding from the county for providing indigent health care in Yuba County.

By voting on the contract extension for the FRHG, Respondent Schrader made a governmental decision that would have a reasonably foreseeable material financial effect on a source of income to him, in violation of section 87100.

Count 3: October 22, 2002 Decision

On October 22, 2002, the Board of Supervisors considered a contract with the FRHG to provide management services for the Peach Tree Clinic. Respondent Schrader was present during the Board of Supervisors' consideration of the management services contract, seconded the motion to approve the contract, and voted with the board majority to approve the contract. The approval of the management services contract had a reasonably foreseeable material financial effect on FHRG, in that it continued to receive funding from the county for providing indigent health care in Yuba County.

By voting on the management services contract for the FRHG, Respondent Schrader made a governmental decision that would have a reasonably foreseeable material financial effect on a source of income to him, in violation of section 87100.

CONCLUSION

This matter consists of three counts which carry a maximum possible administrative penalty of twelve thousand dollars (\$12,000.00). Count 1 carries a maximum penalty of \$2,000, in that it occurred prior to January 1, 2001. Counts 2 and 3 carry a maximum penalty of \$5,000, each, in that they occurred after January 1, 2001.

In aggravation, Respondent Schrader was aware of his obligations under the Act. The number of violations involving two different economic interests evinces a pattern of violations.

In mitigation, Respondent Schrader was in the process of selling the Schrader Scale Company, and that may have led him to believe that it no longer constituted an economic interest to him. However, any mitigating effect of this belief is belied by his unequivocal assertions of sole proprietorship of the company on his statements of economic interests and tax returns for 1999 and 2000. Further, Respondent Schrader did not reap any apparent financial benefit from the decisions that he made in violation of the Act. Respondent Schrader has no prior enforcement history under the Act.

A penalty of \$2,000 is appropriate for Count 1, in that it was one of multiple violations, and there is little or no mitigating effect to Respondent Schrader's subjective belief that the Schrader Scale Company was no longer an economic interest to him. While a \$5,000 maximum penalty is now

in effect for conflict of interest violations occurring after January 1, 2001, there is little enforcement history in applying it. Counts 2 and 3 involve a clear conflict and are aggravated by the fact that there were multiple violations; however, as his spouse was only a part-time clerk in the personnel department of the FRHG, there was a diminished potential for public harm from Respondent Schrader's actions. Therefore, it is recommended that a penalty of \$4,000 per count be imposed, representing an amount toward the higher end of the new penalty range, for Counts 2 and 3.

Accordingly, the facts of the case justify imposition of the agreed upon penalty of ten thousand dollars (\$10,000).